

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

**IN THE MATTER OF:
CITY OF HARTFORD**

Wastewater Facility No. 6-91-28-0-01

**ADMINISTRATIVE
CONSENT ORDER
NO. 2011-WW-06**

**TO: Mayor and Council Members
City of Hartford
150 Elm Street, P.O. Box 910
Hartford, IA 50118**

I. SUMMARY

This administrative consent order (order) is agreed to by the City of Hartford (City) and the Iowa Department of Natural Resources (Department). This order is issued due to failure to timely submit wastewater monthly operation reports (MORs) and failure to properly maintain the City's wastewater treatment facility (WWTF). This order requires timely submittal of MORs with required information to Department Field Office No. 5 (FO 5), proper operation and maintenance of the City's WWTF, and assesses a penalty of \$1,500.00.

Any questions or response regarding this order should be directed to:

Relating to technical requirements:

Kate Bason, Environmental Specialist
IDNR Field Office No. 5
407 SW 7th Street, Suite I
Des Moines, Iowa 50309-4611
Ph: (515) 725-0268

Relating to legal requirements:

Diana Hansen, Attorney at Law
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: (515) 281-6267

II. JURISDICTION

This order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

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III. STATEMENT OF FACTS

1. The City of Hartford maintains a WWTF that consists of a three cell aerated lagoon system constructed in 1986. Two of the cells are aerated while the third cell is quiescent. The WWTF is located to the northwest of the City, just south of Highway 5.
2. Treated wastewater from the WWTF is discharged to Butcher Creek, tributary to the Middle River, pursuant to Iowa NPDES Permit No. 6-91-28-0-01. The NPDES permit for this WWTF was issued on August 29, 2002 and expired on August 28, 2007. Permit reissuance has been placed on hold due to changes to the Department's water quality standards, which have not been resolved to date. The permit contains effluent limitations for the discharge of pollutants, including but not limited to carbonaceous biochemical oxygen demand (CBOD5), total suspended solids (TSS), ammonia nitrogen (N) and pH.
3. On November 13, 2007, Field Office No. 5 (FO 5) inspected the City's WWTF. Following the inspection, FO 5 sent a notice of violation (NOV) letter to the City on December 13, 2007 advising of the failure to submit MORs. The NOV required the City to comply with all permit effluent limitations and to timely submit all monitoring reports with all required information. The inspection report for the November 13, 2007 inspection was included with the NOV letter. The inspection report stated that reports for December 2006, January 2007 and October 2007 had not been submitted to FO 5. The inspection report also noted that some information was entered incorrectly on the report. After the inspection report and cover letter were sent to the City, the Department received the October 2007 MOR by mail on December 10, 2007. The City did not submit the December 2006 and January 2007 MORs at that time.
4. On July 24, 2009, FO 5 sent the City an NOV letter for failure to submit MORs for March 2009 through June 2009. On August 17, 2009 FO 5 received a letter from the City with the past due reports.
5. On January 6, 2010, FO 5 sent the City an NOV letter notifying the City that it had not submitted MORs from September 2009 through December 2009. On or about February 2, 2010, the City submitted the past due MORs and a separate letter addressing the matter.
6. On March 23, 2010, FO 5 sent the City an NOV letter informing the City that it had exceeded the 30 day average CBOD5 concentration limit set by the City's NPDES permit. A response was requested from the City. By a letter dated April 13, 2010, the City responded that the violation was due primarily to the load intake increase due to the hard winter snow pack and turnover of the cells during the thaw.
7. On June 15, 2010, FO 5 sent the City a cover letter and a report for the inspection it conducted on May 21, 2010. The inspection report covered the period from January 2008 through April 2010. The inspection report noted that the thirty day average design flow

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had been exceeded for 7 months of the review period and that the daily maximum design flow had been exceeded during 5 months of the review period. The inspection report also noted that the daily maximum BOD5 loading was exceeded during 5 months of the review period.

8. The inspection report for the May 21, 2010 inspection noted one effluent limit violation for the review period. The WWTF exceeded the thirty day average concentration limit of 25 mg/L for CBOD5 with a reported value of 27.5 mg/L for the month of February 2010. Grab samples conducted during the inspection were well below the permit effluent limits for CBOD5, TSS and ammonia.

9. The FO 5 inspection report for the May 21, 2010 inspection noted that an aeration system blower was out of service and that another blower and motor had been replaced. The inspection report required replacement of the blower as soon as possible. The inspection report noted that the aeration system appeared to be leaking due to large bubbles observed by the inspector. The City was required by the inspection report to maintain the aeration system to ensure an optimal aeration pattern and to repair leaks in the system as soon as possible.

10. The FO 5 inspection report for the May 21, 2010 inspection discussed the failure by the City to connect a teledialer that would allow the WWTF operator to be notified of a power loss and/ or a high water level at the lift station. At the time of the inspection report, the operator informed the inspector that he visited the lift station whenever it stormed. The inspection report stated that this was inadequate to ensure the prevention or minimizing of bypassing. Due to the isolated location of the lift station, a bypass to the nearby creek could occur and be undetected for a considerable period of time. The inspection report recommended that the teledialer be connected and made operable as soon as possible.

11. The June 15, 2010 cover letter to the inspection report required the City to provide a written response to the listed requirements and its plans for the teledialer to FO 5 by July 15, 2010. FO 5 did not receive a written response by the requested due date.

12. On October 4, 2010, FO 5 sent the City a follow-up letter requesting information concerning the status of the blower, the aeration system leaks and the teledialer be submitted by October 25, 2010. On October 12, 2010, the Department received a response from the City. The response stated that repairs had been made to the blower assembly, the teledialer had been installed and programmed to call six phone numbers, and the aeration system leaks were being evaluated for repair.

13. The inspection report for the May 21, 2010 inspection commented on the City's staffing for operation of the WWTF and submittal of MORs. The report noted that the operator, in addition to his responsibility for the WWTF, is responsible for maintenance of City streets, parks, mowing, and winter snow removal. The report stated that these

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duties are beyond what a single individual can properly do. The report stated that the City Clerk assists the operator and provides some back-up to the operator. The inspection report stated that the City needed to ensure that there are adequately trained staff persons to provide operation and maintenance of the facility at times when the operator is absent.

14. On October 12, 2010, the Department received a response from the City dated October 9, 2010. The City's letter stated that the City had installed a Roots Motor/Blower assembly at the WWTF in August 2010 at a cost of \$9,550.00. The City's letter stated that the teledialer had been programmed to call six telephone numbers during power outages. The City and its engineer were evaluating repair options to correct the aeration system leaks in the lagoon cells.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.175(1) provides in part:

If there is substantial evidence that any person has violated or is violating any provision of this division or chapter 459, subchapter III, or of any rule established or permit issued pursuant thereto; then:

1. The director may issue an order directing the person to desist in the practice which constitutes the violation or to take such corrective action as may be necessary to ensure that the violation will cease.

2. Iowa Code section 455B.186 prohibits the discharge of pollutants to waters of the state contrary to a permit from this Department. Iowa Code section 455B.183 prohibits the operation of a waste disposal system without a permit from this Department.

3. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the construction and operation of WWTFs and the discharge of pollutants into waters of the state. The Commission has done so at 567 IAC chapters 60- 69. Subrule 62.1(1) prohibits the discharge of a pollutant without an NPDES permit. Subrule 64.3(1) prohibits the operation of any waste disposal system without a permit. Rule 64.6 specifies the conditions that are to be included in a permit, including applicable effluent limitations in chapters 61 and 62 of the rules and monitoring and reporting requirements in chapter 63. The City's WWTF discharges to a water of the United States and is required to have an NPDES permit with effluent limitations, monitoring requirements and reporting requirements.

4. Department rule 567 IAC 63.7 provides for the submission of records of operation for WWTFs to the Department. Under this rule MORs are required to be submitted to the Department within fifteen days following the close of the reporting period and in accordance with monitoring requirements derived from chapter 63 and included in the

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operation permit for the facility. Rule 63.9 requires MORs to include the results of all monitoring specified in or authorized by chapter 63. The Department sent the City an inspection report and NOV letters for the City's WWTF that stated violations of the monitoring and reporting requirements.

5. The NPDES permit for the City's WWTF requires that this WWTF be adequately operated and maintained. Standard condition 8 of the permit provides that all facilities and control systems shall be operated as efficiently as possible and maintained in good working order. This standard permit condition is based upon subrule 64.7(5)"f". This subrule states "the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities and systems of control to achieve compliance with the terms and conditions of the permit." Based on the inspection report for the May 21, 2010 inspection for this facility, there has not been proper maintenance of this facility. The report noted that a teledialer to alert the operator of bypasses at the lift station had not been connected, that a blower in the aeration system needed to be replaced, and that aeration leaks in the aeration system needed to be repaired.

V. ORDER

THEREFORE, the Department orders and the City agrees to comply with the following provisions to cease, abate and redress violations:

1. You are required to comply with the monitoring and reporting requirements of the NPDES permit issued for the City's WWTF. This includes completion of all monitoring required by the NPDES permit and timely submittal of all MORs to FO 5.
2. You are required to properly operate and maintain the City's WWTF in accordance with the City's NPDES permit.
3. An administrative penalty of \$1,500.00 is assessed. The administrative penalty shall be paid to the Department within 30 days of your receipt of this order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the

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issuance of an order with an administrative penalty. The administrative penalty assessed by this order is determined as follows:

a. **Economic Benefit** There have been cost savings in not monitoring and reporting as required by the NPDES permit. This order assesses the amount of \$100.00 for this factor.

b. **Gravity of the violations** One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above substantial civil and criminal sanctions are authorized by statute. Despite the high penalties authorized, the Department has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies. Submittal of MORs and proper maintenance of the WWTF are imperative for the Department to assess the operation of a WWTF, to determine compliance with the NPDES permit limitations and to protect the public health and the environment. Based on these considerations, the Department assesses the amount of \$500.00 for this factor, due to multiple violations.

c. **Culpability** This facility failed to timely submit all required MORs by the due date. The City was issued an inspection report and NOV's in response to the violations. Due to the City's failure to timely submit MORs with all required information as required by NOV letters and an inspection report, the Department assesses \$500.00 for this factor, based on multiple violations.

d. **Mitigating or Aggravating Factors** The City has a history of noncompliance with MOR requirements. This is shown by issuance of three formal notifications of its failure to submit reports, including one inspection report with an NOV letter and two other NOV letters. The Department assesses an additional \$400.00 for this factor.


VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175, and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of the City. By signature to this order, all rights to appeal this order are waived.

VIII. NONCOMPLIANCE

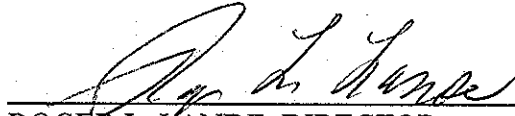
Compliance with Section V. constitutes full satisfaction of all requirements pertaining to the specific violations described in this order. Failure to comply with this order may result in referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

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LOUIS MCCORMICK, MAYOR
CITY OF HARTFORD

Dated this 24 day of
MARCH, 2011



ROGER L. LANDE, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 31st day of
March, 2011

City of Hartford- Wastewater Facility No. 6-91-28-0-01 (Copy to Central Office Wastewater File), Kate Bason- Field Office No. 5, Diana Hansen- Legal Services Bureau, US EPA Region VII, I.B.2.a.